

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ANTHONY WHITE,

Plaintiff,

vs.

LIEUTENANT ROECHNER #34, SGT. MICHAEL
REILLY #61, SGT. STEFANSKI #82, OFFICER
SAWYER #120, OFFICER KELLY #125, OFFICER
PALMER #255, OFFICER KILGORE #332 and the
CITY OF JOLIET,

Defendants.

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)
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) No. 08 C 719
)
) Judge Hibbler
) Magistrate Judge Schenkier
)
)
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)
)
)

NOTICE OF FILING

TO: Ms. Erica E. Faaborg, efaaborg@hrbattorneys.com
Mr. Blake Wolfe Horwitz,
bhorwitz@hrbattorneys.com,
ovirola@hrbattorneys.com,
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Ms. Amanda Sunshine Yarusso, ayarusso@hrbattorneys.com

PLEASE TAKE NOTICE that on the 16th day of July, 2008, I have caused to be filed with the Clerk of the U.S. District Court, United States Court House, 219 South Dearborn Street, Chicago, Illinois 60604, an Answer to Amended Complaint at Law, a copy of which is attached hereto and served upon you.

Respectfully submitted,

Gregory Smith
Assistant Corporation Counsel
City of Joliet
150 West Jefferson Street
Joliet, Illinois 60432
(815) 724-3800
Fax: (815) 724-3801
Reg. No. 06204981

By: /s/ Gregory Smith
One of their attorneys

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Notice of Filing and Answer to Amended Complaint at Law were served upon the above named by electronic filing on the 16th day of July, 2008.

/s/ Gregory Smith

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ANTHONY WHITE,)	
)	
Plaintiff,)	
)	
vs.)	No. 08 C 719
)	
LIEUTENANT ROECHNER #34, SGT. MICHAEL)	Judge Hibbler
REILLY #61, SGT. STEFANSKI #82, OFFICER)	Magistrate Judge Schenkier
SAWYER #120, OFFICER KELLY #125, OFFICER)	
PALMER #255, OFFICER KILGORE #332 and the)	
CITY OF JOLIET,)	
)	
Defendants.)	

ANSWER TO AMENDED COMPLAINT AT LAW

NOW COME the Defendants, Lieutenant Roechner, Sgt. Michael Reilly, Sgt. Stefanski, Officer Sawyer, Officer Kelly, Officer Palmer, Officer Kilgore, and the City of Joliet, a Municipal Corporation, by and through their attorney, Gregory Smith, Assistant Corporation Counsel, and state as follows:

JURISDICTION

1. The jurisdiction of the court is invoked pursuant to the Civil Rights Act, 42 U.S.C. §1983; the Judicial Code, 28 U.S.C. §1331 and §1343(a); the Constitution of the United States; and this Court's supplementary jurisdiction powers.

ANSWER:

Defendants admit the allegations contained in paragraph 1 of the Amended Complaint.

WHEREFORE, Defendants pray this Honorable Court will dismiss the Amended Complaint at Law and award the defendants the cost of suit and any other relief deemed equitable and just.

PARTIES

2. PLAINTIFF is a resident of the State of Illinois and of the United States.

ANSWER:

Defendants are without sufficient knowledge to answer paragraph 2 of the Amended Complaint, therefore, demand strict proof thereof.

3. The DEFENDANT OFFICERS were at all times relevant hereto employed by and acting on behalf of the CITY OF JOLIET.

ANSWER:

Defendants are without sufficient knowledge to answer paragraph 3 of the Amended Complaint, therefore, demand strict proof thereof.

4. The CITY OF JOLIET is a duly incorporated municipal corporation and is the employer and principal of the DEFENDANT OFFICERS as well as the other officers and/or employees referred to in this Complaint. At all times material to this complaint, the DEFENDANT OFFICERS were acting under color of state law, ordinance and/or regulation, statutes, custom and usages of the CITY OF JOLIET.

ANSWER:

Defendants admit the allegations contained in paragraph 4 of the Amended Complaint.

WHEREFORE, Defendants pray this Honorable Court will dismiss the Amended Complaint at Law and award the defendants the cost of suit and any other relief deemed equitable and just.

FACTS

5. On or about August 18, 2007, some or all of the DEFENDANT OFFICERS were engaged in an unreasonable seizure of the PLAINTIFF. This conduct violated the Fourth Amendment to the United States Constitution.

ANSWER:

Defendants deny the allegations contained in paragraph 5 of the Amended Complaint.

6. On or about August 18, 2007, PLAINTIFF did not obstruct justice, resist arrest and/or batter and/or assault any of the DEFENDANT OFFICERS.

ANSWER:

Defendants deny the allegations contained in paragraph 6 of the Amended Complaint.

7. The show of force initiated by and/or the failure to intervene in the use of said force by the DEFENDANT OFFICERS caused an unreasonable seizure to the PLAINTIFF.

ANSWER:

Defendants deny the allegations contained in paragraph 7 of the Amended Complaint.

8. The DEFENDANT OFFICERS arrested, participated in the arrest and/or failed to prevent the arrest of the PLAINTIFF notwithstanding the fact that the DEFENDANT OFFICERS failed to observe and/or learn that PLAINTIFF had committed

criminal activity of any sort. The DEFENDANT OFFICERS did not have probable cause to believe that criminal activity took place relative to the PLAINTIFF.

ANSWER:

Defendants deny the allegations contained in paragraph 8 of the Amended Complaint.

9. On August 18, 2007, PLAINTIFF had not committed an act contrary to the laws of the State of Illinois.

ANSWER:

Defendants deny the allegations contained in paragraph 9 of the Amended Complaint.

10. As a direct and proximate result of one or more of the aforesaid acts or omissions of the DEFENDANT OFFICERS, PLAINTIFF was caused to suffer damages.

ANSWER:

Defendants deny the allegations contained in paragraph 10 of the Amended Complaint.

11. As a direct and proximate cause of DEFENDANT OFFICERS' interaction with PLAINTIFF, PLAINTIFF was physically injured and required medical attention.

ANSWER:

Defendants deny the allegations contained in paragraph 11 of the Amended Complaint.

12. DEFENDANT OFFICERS released PLAINTIFF from their custody after causing him physical injury, without assisting PLAINTIFF in seeking medical attention.

ANSWER:

Defendants deny the allegations contained in paragraph 12 of the Amended Complaint.

13. On or about August 18, 2007, the DEFENDANT OFFICERS were on duty at all times relevant to this complaint and were duly appointed police officers for the CITY OF JOLIET. The DEFENDANT OFFICERS engaged in the conduct complained of, on said date, in the course and scope of employment and while on duty. This action is being brought with regard to the individual capacity of the DEFENDANT OFFICERS.

ANSWER:

Defendants deny the allegations contained in paragraph 13 of the Amended Complaint.

14. Upon information and belief, UNKNOWN OFFICERS, on August 18, 2007, came into physical contact with PLAINTIFF.

ANSWER:

Defendants admit the allegations contained in paragraph 14 of the Amended Complaint.

WHEREFORE, Defendants pray this Honorable Court will dismiss the Amended Complaint at Law and award the defendants the cost of suit and any other relief deemed equitable and just.

CONSPIRACY

15. Some or all of the DEFENDANT OFFICERS conspired to cause damage to PLAINTIFF in the following manner:

- a. agreeing to falsely arrest and/or falsely institute criminal charges/proceedings against the PLAINTIFF;
- b. using excessive force and/or failing to intervene in the use of excessive force against the PLAINTIFF;
- c. agreeing not to report each other after witnessing and/or using excessive force relative to the PLAINTIFF;
- d. agreeing not to report each other after falsely arresting and/or charging PLAINTIFF;

ANSWER:

Defendants deny the allegations contained in paragraph 15 of the Amended Complaint.

14. In connection with the above conspiracy, the DEFENDANT OFFICERS specifically engaged in communication on or about August 18, 2007, whereby the DEFENDANT OFFICERS agreed to facilitate, engage in and support the activity which occurred in connection with the allegations immediately above.

ANSWER:

Defendants deny the allegations contained in paragraph 14 of the Amended Complaint.

WHEREFORE, Defendants pray this Honorable Court will dismiss the Amended Complaint at Law and award the defendants the cost of suit and any other relief deemed equitable and just.

COUNT I
§1983 Excessive Force

15. PLAINTIFF re-alleges paragraphs 1-14 as though fully set forth herein.

ANSWER:

Defendants re-allege paragraphs 1-14 as though fully set forth herein.

16. The actions of the DEFENDANT OFFICERS amounted to an excessive use of force onto PLAINTIFF. This conduct violated the Fourth Amendment of the United States Constitution.

ANSWER:

Defendants deny the allegations contained in paragraph 16 of the Amended Complaint.

17. The aforementioned actions of the DEFENDANT OFFICERS were the direct and proximate cause of the constitutional violations set forth above.

ANSWER:

Defendants deny the allegations contained in paragraph 17 of the Amended Complaint.

WHEREFORE, Defendants pray this Honorable Court will dismiss the Amended Complaint at Law and award the defendants the cost of suit and any other relief deemed equitable and just.

COUNT II
§1983 False Arrest

18. PLAINTIFF re-alleges paragraphs 1-14 as though fully set forth herein.

ANSWER:

Defendants re-allege paragraphs 1-14 as though fully set forth herein.

19. The actions of the DEFENDANT OFFICERS caused the arrest of the PLAINTIFF without probable cause to believe that PLAINTIFF committed criminal activity. Therefore, the conduct of the DEFENDANT OFFICERS was in violation of the Fourth Amendment to the United States Constitution.

ANSWER:

Defendants deny the allegations contained in paragraph 19 of the Amended Complaint.

20. The aforementioned actions of the DEFENDANT OFFICERS were the direct and proximate cause of the Constitutional violations set forth above.

ANSWER:

Defendants deny the allegations contained in paragraph 20 of the Amended Complaint.

WHEREFORE, Defendants pray this Honorable Court will dismiss the Amended Complaint at Law and award the defendants the cost of suit and any other relief deemed equitable and just.

COUNT III
False Arrest - State Claim

21. PLAINTIFF re-alleges paragraphs 1-14 as though fully set forth herein.

ANSWER:

Defendants re-allege paragraphs 1-14 as though fully set forth herein.

22. The DEFENDANT OFFICERS arrested PLAINTIFF without probable cause to believe that PLAINTIFF committed criminal activity. The conduct of the DEFENDANT OFFICERS was in violation of the Constitution to the State of Illinois as well as Illinois state law.

ANSWER:

Defendants deny the allegations contained in paragraph 22 of the Amended Complaint.

23. The aforementioned actions of the DEFENDANT OFFICERS were the direct and proximate cause of the violations set forth above.

ANSWER:

Defendants deny the allegations contained in paragraph 23 of the Amended Complaint.

WHEREFORE, Defendants pray this Honorable Court will dismiss the Amended Complaint at Law and award the defendants the cost of suit and any other relief deemed equitable and just.

COUNT IV
Battery – State Claim

24. PLAINTIFF re-alleges paragraphs 1-14 as though fully set forth herein.

ANSWER:

Defendants re-allege paragraphs 1-14 as though fully set forth herein.

25. The DEFENDANT OFFICERS struck the PLAINTIFF intentionally, without consent and without justification.

ANSWER:

Defendants deny the allegations contained in paragraph 25 of the Amended Complaint.

26. The conduct of the DEFENDANT OFFICERS was in violation of Illinois Law.

ANSWER:

Defendants deny the allegations contained in paragraph 26 of the Amended Complaint.

27. The aforementioned actions of the DEFENDANT OFFICERS were the direct and proximate cause of the violations set forth above.

ANSWER:

Defendants deny the allegations contained in paragraph 27 of the Amended Complaint.

WHEREFORE, Defendants pray this Honorable Court will dismiss the Amended Complaint at Law and award the defendants the cost of suit and any other relief deemed equitable and just.

COUNT V
§1983 Deliberate Indifference to Medical Needs

28. PLAINTIFF re-alleges paragraphs 1-14 as though fully set forth herein.

ANSWER:

Defendants re-allege paragraphs 1-14 as though fully set forth herein.

29. The actions of the DEFENDANT OFFICERS were deliberately indifferent to the medical needs of the PLAINTIFF in that said OFFICERS failed to transport PLAINTIFF for immediate medical attention after causing injury to PLAINTIFF. This conduct violated the Fourth and Fourteenth Amendment to the United States Constitution.

ANSWER:

Defendants deny the allegations contained in paragraph 29 of the Amended Complaint.

30. The aforementioned actions of said OFFICERS were the direct and proximate cause of the constitutional violations set forth above.

ANSWER:

Defendants deny the allegations contained in paragraph 30 of the Amended Complaint.

WHEREFORE, Defendants pray this Honorable Court will dismiss the Complaint at Law and award the defendants the cost of suit and any other relief deemed equitable and just.

COUNT XI
745 ILCS 10/9-102 Claim Against the CITY OF JOLIET

31. PLAINTIFF re-alleges paragraphs 1-14 as though fully set forth herein.

ANSWER:

Defendants re-allege paragraphs 1-14 as though fully set forth herein.

32. Defendant CITY OF JOLIET is the employer of the DEFENDANT OFFICERS alleged above.

ANSWER:

Defendants admit the allegations contained in paragraph 32 of the Amended Complaint.

33. The DEFENDANT OFFICERS, as alleged above, committed the acts under color of law and in the scope of employment of the CITY OF JOLIET.

ANSWER:

Defendants deny the allegations contained in paragraph 33 of the Amended Complaint.

WHEREFORE, Defendants pray this Honorable Court will dismiss the Amended Complaint at Law and award the defendants the cost of suit and any other relief deemed equitable and just.

COUNT XII
Supplementary Claim for Respondeat Superior

34. PLAINTIFF re-alleges paragraphs 1-14 as though fully set forth herein.

ANSWER:

Defendants re-allege paragraphs 1-14 as though fully set forth herein.

35. The aforesaid acts of the DEFENDANT OFFICERS were in the scope of employment and therefore the Defendant CITY OF JOLIET, as principal, is liable for the actions of its agent(s) under the doctrine of *respondeat superior*.

ANSWER:

Defendants deny the allegations contained in paragraph 35 of the Amended Complaint.

WHEREFORE, Defendants pray this Honorable Court will dismiss the Amended Complaint at Law and award the defendants the cost of suit and any other relief deemed equitable and just.

Respectfully submitted,

**By: /s/ Gregory Smith
One of their attorneys**

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